IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

SMT.SOHANI BAI & ORS. VS. WORKMAN COMPENSATION COMMISSIONER,CHITTORGARH

(S.B.C.Writ Petition No.510/03)

Date of order :- 15th December,2006.

PRESENT

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Mr.Manish Pitalia, Advoate for the petitioners.
Mr. Rameshwar Dave, Dy.Government Advocate.

REPORTABLE

The petitioners have filed this writ petition with the prayer that the scheme evolved by the Workman Compensation Commissioner in orders dated 3.10.2002 and 3.12.2002 for investment of the compensation payable to the petitioners no. 1 and 5 who are wife and mother of the deceased employee respectively and petitioners no. 2 to 4 who are his minor children should be quashed and set aside and the Workman Compensation Commissioner, Chittorgarh (for short "the Commissioner") be directed to release ex-gratia amount of Rs.1,00,000/- in cash to the petitioners from the amount so deposited in the bank and the balance amount be invested in the F.D.Rs. in compliance of its order

dated 27.5.2002. The learned Commissioner by order dated 27.5.2002 directed the National Insurance Company Ltd., Chittorgarh to deposit a sum of Rs.2,11,790/- together with interest @ 12% per annum from 17.10.2000 on which date application for compensation was filed. The compensation was claimed on account of the accidental death of the husband of the petitioner no. 1 who while driving a tanker No. R.J.09-G-0593 died in a road accident around 9 p.m. on 5th September, 2000 at Udaipur. The aforesaid tanker was insured with the respondent Insurance company. The learned Commissioner vide its order dated 3.12.2002 directed that a sum of Rs.26,561 shall be paid to the petitioner Sohani Bai widow of the said deceased by way of a demand draft for her immediate needs. It further directed that a sum of Rs.10,000/- each should be deposited in her name in fixed deposit with any nationalised bank in three separate accounts for the duration of two, four and six years respectively and on maturity of the account, the amount should be paid to her. A sum of Rs.20,000/- should be paid to Smt. Radha Bai (petitioner no.5) who is mother of the deceased. A further sum of Rs.10,000/- each should be deposited in three separate F.D. Accounts in her name for the duration of one, three and five years respectively and on maturity of the amount, its payment should be made to her . With regard to the children, learned Commissioner

directed that a sum of Rs.50,000/- should be invested in favour of each of the petitioners no. 2 to 4 who are minor children of the deceased in purchasing Kisan Vikas Patra and should continue to be invested till they attain the age of majority. Such amount would be utilised for the purpose of education and marriage of the children as per the requirements with the consent of their guardian. When the petitioners filed an application before the learned Commissioner for the relief which they have claimed in the present writ petition, the learned Tribunal rejected the application. Hence this writ petition.

Learned counsel for the petitioner has relied upon the judgment of this Court in Chatar Lal vs. Motor Accident Claims Tribunal, Rajsamand, 1997(1) W.L.C.(Raj.) p.560 in which while dealing with a scheme of investment of the compensation amount evolved by the Motor Accident Claims Tribunal, this Court on the request of the petitioner to withdraw a sum of Rs.50,000/- deposited in F.D. account held that petitioner was neither minor nor insane. There was no legal justification for the Tribunal to impose restriction on use of amount lying in F.D. account. Learned counsel further relied upon the judgment of Punjab & Haryana High Court in Geeta Rani & Ors. vs. Oriental Bank of Commerce Ltd., 2003(1) T.A.C. 358 (P&H) wherein while dealing with the similar question, the learned

Labour Court held that widow of deceased being major wanted to open grocery shop to earn and maintain herself and children. Denial of permission to withdraw the awarded amount would travesty of justice.

I have heard Mr.Manish Pitalia, learned counsel for the petitioner and Mr. Rameshwar Dave, Dy.Government Advocate for the State and perused the record.

Learned counsel for the petitioners argued that the petitionesr requires the money for properly looking after the minor children and their education and maintenance. Learned counsel argued that petitioners had no source of income and therefore it would be only in the interest of justice if she is allowed to withdraw a sum of Rs.1,00,000/-. Alternatively, he argued that half of the amount invested in the name of the children in various schemes should be allowed to be withdrawn and if the amount was not allowed to be withdrawn, at least the interest accrued thereupon from time to time should be paid to the petitioner as a recurring amount so that she could sustain herself and the family.

I have given my thoughtful consideration to the argument of the learned counsel for the petitioner and the learned

Deputy Government Advocate.

Learned Commissioner has evolved an integrated scheme in which apart from making of payment of Rs.26,561/- and 20,000/- to the petitioners no. 1 and 5 respectively, it has directed that investment of 30,000/- each in their favour in three different F.Ds. While the three F.Ds account each of Rs.10,000/- has been opened in the name of the petitioner no. 1 for duration of two, four and six years respectively, similarly three F.D. Accounts of Rs.20,000/- has been opened in the name of respondent no. 5, the mother of the deceased for the duration of one, three and five years respectively. This has been planned in such a manner that every year the maturity amount of the F.D. account would be payable to the family. Remaining amount of Rs.1,50,000/- has been invested in K.V.P. In the sum of Rs.50,000/- each in the name of the petitioners no. 2 to 4 who are all minor children of the deceased with the direction that such amount shall continue to be invested till they become major and the amount of maturity receivable at that stage would be utilised for the purpose of education and marriage of the children with the consent of the guardian.

I do not find any error either in the scheme of

investment or in the order passed by the learned Commissioner refusing to permit pre-mature withdrawal of the amount. The judgment cited by the learned counsel for the petitioner are distinguishable on facts and therefore cannot be applied in the facts of the present case. If the amount invested in Kisan Vikas Patra is allowed to be withdrawn at a premature stage, it would only result in causing monetary loss to the minor. Besides, the subject scheme of investment has been evolved in such a comprehensive manner that accepting petitioners prayer would not only destroy the cohesion of the scheme but also work contrary to the interest of the minor. In my considered view, order passed by learned Commissioner does not suffer from any error apparent on the record so as to warrant interference by this Court.

In the result, the writ petition is dismissed with no order as to costs.

(MOHAMMAD RAFIQ),J.